

FILED

RE: ADOPTION OF SMALL CLAIMS COURT RULES

228

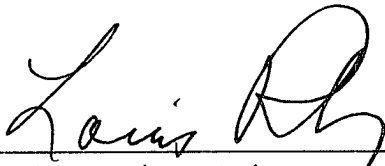
SEP 04 2012

Elizabeth L. White
CLERK OF THE MARION CIRCUIT COURT

MINUTE ENTRY OF SEPTEMBER 4, 2012

On this day, the Court issued the attached Proposed Local Rules governing Small Claims Courts. Notice of the same was given in accordance with Ind. T.R.P. 81 to wit, said Rules were transmitted to the Clerk of Marion County and to the Division of State Court Administration and general notice was given to the Indianapolis Bar Association and the Marion County Bar Association, as well as their officers.

So Ordered this 4th day of September, 2012.



Louis Rosenberg, Judge
Marion County Circuit Court

STATE OF INDIANA – COUNTY OF MARION
IN THE MARION CIRCUIT COURT

**Notice of Proposed Local Rule Amendment and Finding Good Cause to Deviate From
Established Schedule**

September 4, 2012

The judge of the Marion Circuit Court, pursuant to Ind. Code § 33-34-3-6, hereby gives notice of amendments to the local court rules to include these Small Claims rules and finds good cause to deviate from the schedule for amending local rules under Trial Rule 81(D).

Notice has been given to the public by posting on the website of the Indiana Judiciary, and by furnishing a copy to the officers of the Indianapolis Bar Association. Public commenting will begin on September 4, 2012, and shall close on October 5, 2012. The proposed rules will be adopted, modified or rejected before October 12, 2012.

Comments may be made in writing and mailed to:

Hon. Louis F. Rosenberg, Judge of the Marion County Circuit Court
Attn: Public Comment on Local Rules
City-County Building, W506
200 E. Washington St.
Indianapolis, Indiana 46204

Comments may be e-mailed to:

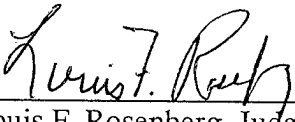
Aida J. Ramírez, Law Clerk to the Hon. Louis F. Rosenberg
E-mail: Aida.Ramirez@indy.gov
Subject: Public Comment on Local Rules

A paper copy of the proposed local rules will be made available for viewing, during regular business hours, in the office of the:

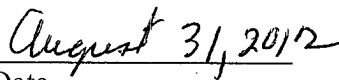
Clerk of Marion County
City-County Building, W122
200 E. Washington St.
Indianapolis, Indiana 46204

An electronic version of the proposed rules is available at: <http://www.courts.IN.gov>

These rules will be effective on January 01, 2013.



Louis F. Rosenberg, Judge
Marion County Circuit Court



Date

GENERAL COMMENTS TO THE RULE

The Circuit Court is charged by Ind. Code 33-34-3-6 and 7 to “make and adopt uniform rules for conducting the business of the small claims court... according to a simplified procedure to enable any person either to seek or to defend against a small claim without consulting or being represented by an attorney.” In discharging this responsibility, the Court has decided to enhance the normal opportunity for comment by laying these proposed rules before an Advisory Committee.¹ The Court has also attended all of the public hearings of the Supreme Court Task Force on Marion County Small Claims Court and has carefully read its Report of May 1, 2012. Finally, the Court has elicited the advice and assistance of the nine sitting Small Claims Court judges.

At the end of the text of each proposed rule, the reader will find citations to any relevant Task Force finding or recommendation, as well as to relevant passages of a February 2012, report on “Landlord-Tenant Court Proceedings in Indiana” co-authored by Prof. Florence Roisman of the Robert McKinney School of Law and Brienne Delaney, a 2012 graduate of the Law School. Occasionally, the citations are supplemented by brief comments.

It should be noted that these Rules necessarily have a limited function. Most importantly, these Rules may not conflict with the Indiana Small Claims Rules. These rules may supplement, but not supplant the state rules.

100 GENERAL PROVISIONS

Rule LR49-SC01-101 Purposes, Scope and Authority

- A. The purposes of these rules are to promote fairness and uniformity of practice and procedure among the Marion County Small Claims Courts.
- B. These rules are intended to supplement the Indiana Rules for Small Claims. In the event of a conflict between these rules and the Indiana Rules, the latter shall govern.
- C. These rules shall apply to all divisions of the Marion County Small Claims Court and to all Judges serving in that Court, regardless of their formal designation as part-time or full-time.
- D. The Circuit Court is authorized to promulgate these rules by Ind. Code §§ 33-34-3-6 - 7.

Adopted Oct. 12, 2012 effective Jan. 1, 2013.

Rule LR49-SC01-102 Citation

These rules may be cited as LR49-SC ____.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

¹ Advisory Committee Members: John Day, Indiana State Representative; Chair; Phillip LaMere, Attorney at Bowman, Heintz, Boscia & Vician P.C, Vice-Chair; Alison Becker, Northern Indiana Public Service Company David Gilman, Attorney at Law; Christine Hayes Hickey, partner at Rubin & Levin, P.C.; John Keeler, Attorney at Law; Nathaniel Lee, Attorney at Law, Lee & Fairman, Aida J. Ramirez, Law Clerk for the Hon. Louis F. Rosenberg, Judge, Circuit Court. The Court thanks the Committee for its diligent and helpful scrutiny of the rules. As a result of their efforts, these proposed rules have been substantially improved.

Rule LR49-SC00-103 Definitions

Court. "Court" shall mean all of the Marion County Small Claims Courts, unless the context indicates otherwise.

Judge. "Judge" means the sitting Judge of a division of the Marion County Small Claims Court, unless the context indicates otherwise.

SCA Forms. "SCA Forms" shall mean standard Small Claims Pleadings, Orders, Notices and related letters made generally available by the Indiana State Court Administration.

SCR. "SCR" shall mean Small Claims Rule of the State of Indiana.

Staff. "Staff" shall mean all Court employees, the Constable, and Deputy Constables.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-104 Court Hours

The Court shall be open to accept pleadings and conduct any other business during "regular office hours" of 8:30 a.m. to 4:30 p.m. Monday through Friday of each week, except for holidays as recognized by the Circuit Court. For the convenience of the public, the Court may also arrange for sessions outside regular office hours.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

200 COMMENCEMENT OF CASE**Rule LR49-SC02-201 SCA Forms**

- A. The Court shall utilize SCA Forms to the fullest extent practical. In order to promote uniformity, the Circuit Court, in consultation with the Small Claims Courts, may require the use of certain form(s).
- B. The Court shall encourage litigants to use SCA Forms. The Court shall maintain current SCA Forms and a supply of preprinted forms for frequently utilized forms. The Court may charge a fee for providing SCA Forms, not to exceed the cost to the Court.
- C. The Court may supplement SCA Forms, upon providing a copy of the same to the Circuit Court and the SCA.
- D. The Clerk shall provide Court forms upon request and shall assist unrepresented litigants in completing the form, but shall not provide advice as to the use or effect of the form.

Comment: The intent of LR49-SC02-201(C) is to encourage the provision of clerical assistance to unrepresented litigants in completing court forms. It is not intended to encourage the provision of advice that could be considered the unauthorized practice of law. For instance, it is permissible to indicate that a form is asking for the facts of the case. It would not be permissible to suggest what facts should be included on the form or how those facts should be presented.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(34), p. 11; D(51)-(52), p. 13.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 3(a), p. 28; 4, p. 29. REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA III(B), p. 17.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-202 Waiver of Filing Fees and Costs

- A. Upon the filing of a Waiver of Filing Fee and Costs Form and a showing of an inability to pay the filing fee and costs, the Court shall waive the filing fee and costs in full or in part.
- B. The Court may presume that an applicant is unable to pay the filing fee and costs if the applicant is represented by an attorney of an organization that uses generally accepted standards of poverty to determine eligibility for its services. Persons whose filing fees and costs have been waived are not required to pay SCA Form fees as indicated in LR49-SC02-201(B).

Comment: For example, the Legal Services Organization of Indiana uses objective financial criteria requiring eligible clients to have income at or below one hundred and twenty-five percent (125%) of the U.S. Census Poverty Guidelines.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT D (45), p. 12.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC03-203 Timeliness of Service

Service shall be effected no later than twenty (20) days before the initial hearing, except when possession of real estate is sought. When possession of real estate is sought, service shall be effected no less than ten (10) days before the initial hearing, except in those instances consistent with Ind. Code § 32-30-3-4 and § 32-31-6-7.

Comment: In emergency situations, the Court may reduce the Timeliness of Service requirement to a period of time less than ten (10) days. Consistent with IC 32-31-6-7, failure to pay rent is not considered an emergency situation.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT G, p. 15 -16.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 1(b), p. 27.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC03-204 Explanation of Service Options

At the time of filing a claim, the Clerk shall explain to unrepresented litigants their options for serving the Notice of Claim and Summons. Should the litigant fail to designate a preference, service shall be by certified mail.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT G, p. 15 -16.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 1(b), p. 27.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

300 MOTIONS

Rule LR49-SC09-301 Continuances

- A. Absent a Motion for Continuance, parties shall be ready for a trial on the merits at the initial hearing. Motions for Continuance of the initial hearing shall be granted liberally, except for hearings for possession of real estate. Motions for Continuance of the initial hearing joined by all parties shall be automatically granted. Motions for Continuance of hearings set after the initial hearing shall be granted only for good cause shown.
- B. If the parties at the initial hearing declare that they desire to proceed to trial, the Court shall try the case during that session, provided that the Court may continue the case due to congestion of the Court docket. The Court shall reserve a reasonable portion of the Court's docket for contested matters on any day during which it holds initial hearings.
- C. If a case is continued, the Court shall determine from the litigants the time needed for trial and the Court shall endeavor to schedule contested matters and keep its docket in such a manner as to avoid unnecessary delay and inconvenience to the parties.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(c), p. 27.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC12-302 Change of Venue from the Court

In addition to a Motion to Correct Venue, as provided at SCR 12 either party may move for a change of venue from the Court, except in cases in which there is a claim between a landlord and tenant. The Court shall grant Motions for Change of Venue upon a showing of good cause. Motions for Change of Venue and Motions to Correct Venue shall be filed within twenty (20) days of the service of the Notice of Claim or the initial hearing date, whichever is earlier, or objections to venue will be deemed waived.

Comment: More than one court may be considered proper venue. As a result, it may be appropriate to allow for a Motion for Change of Venue even though the Court granting the motion is considered a proper venue for the matter.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT E, p. 13 - 14.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

400 HEARING PROCEDURES

Rule LR49-SC11-401 Non-Delegable Duties

The Judge shall review all tendered Judgments and Orders, but may delegate to Court staff related clerical functions not requiring the exercise of judicial discretion. In no event may any official duty of the Court be delegated to persons not sitting as *Pro Tempore* Judges or not employed as staff.

Comment: Court staff may only use a stamp bearing the Judge's signature when specifically directed to do so by Judge. Standing policies regarding the use of such a stamp by Court staff other than the Judge are not permitted except regarding the use of the stamp for copies of Orders which bear the Judges original signature.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(32) – (33), p. 11; C(35), p. 11.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(c)-(d), p. 27-28.

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA I(A), p. 6.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-402 Notice of Litigant's Rights

At the beginning of each session, the Court shall notify litigants of their rights as described in the Notice of Claim including but not limited to the following:

- A. Litigants are free and encouraged to settle their disputes;
- B. Litigants are also free to refuse to speak or provide information to the opposing party or its attorney;
- C. At the initial hearing, the Court will consider Motions to Continue the trial;
- D. When the session resumes, a litigant may speak with the Judge in open Court;
- E. If no Motions to Continue the trial are made, the case will be tried during the session, unless the Court's docket is congested, in which case the matter will be continued to a later date.

The above information will be included in a video provided by the Circuit Court which may be used instead of an oral notification.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(34), p.11; C(40), p. 12; C(43), p. 12; D(44), p. 12; D(49), p. 13; D(53), p. 13.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(b), p. 27; 3(a), p. 28.

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA III(B), p. 17; III(C), p. 18.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-403 Access to Court Files

Court files shall be under the control of the Court at all times. To facilitate trial preparation and/or negotiations, the Court may allow a party or its counsel to review or possess on the Court premises one or more files for a short period of time before and after the session and during the session. The opposing party shall have reasonable access to the file when in the possession of the other party.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(29) – (30), p. 10 - 11.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(f), p. 28.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC11-404 Agreed Judgments

Agreed Judgments shall be reviewed for approval by the Court. In determining whether to approve the proposed judgment, the Court shall consider in addition to the requirements of SCR 11 whether the judgment requires payment from income or assets which would be exempt from execution and if so whether the Defendant was informed of such exemption rights before signing the agreement. A debtor's signature on a Court-prescribed Notice of Exemption Rights form shall give rise to a rebuttable presumption that the debtor was informed of his/her exemption rights. The absence of the same shall give rise to a rebuttable presumption the debtor was not informed of his/her exemption rights.

Comment: This provision is consistent with *Branham v. Varble*, which indicates that it is appropriate for Judges in small claims proceedings to advise pro se litigants of their exemption rights, at least as it pertains to the general wage and SSI exemptions. (*Branham v. Varble*, 952 N.E. 2d 744, 748 (Ind. 2011)).

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(35) – (36), p. 11; E(61), p. 14.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(c), p. 27; 2(e), p. 28.

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA I(A), p. 6.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-405 Notice of Appeal Rights

At the time that the Court announces its decision in a contested matter, the Court shall advise the losing party of his/her right to appeal. In the event that the Court enters judgment outside the presence of the parties, said advice shall be included in the Entry served on the parties.

Comment: This standard is similar to that provided in criminal proceedings and seems appropriate in small claims proceedings given the high percentage of pro se litigants.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-406 Bifurcation of Proceedings

When a claim for possession of real or personal property is joined with a claim for damages, the Court may bifurcate the proceedings. The initial hearing may be restricted to the issue of whether the Plaintiff is entitled to possession, provided that the Defendant may introduce evidence in the form of testimony, affidavits or certified records or other reliable forms of evidence constituting a defense under Indiana statutes or common law. All remaining issues, including damages, may be tried at a subsequent hearing.

Comment: The intent of this section is to give effect to Ind. Code 32-30-3-5 as to the form of permissible evidence. See Morton v. Ivacic, 898 N.E.2d 1196, 1199 (Ind. 2008). It is also intended to recognize defenses in addition to a denial that the rent was not paid. See, Theis v. Heuer, 264 Ind. 1, 280 N.E. 2d 300 (Ind. 1972); Barnes v. Mac Brown & Co., Inc., 264 Ind. 227, 342 N.E. 2d 619 (Ind. 1976).

Citation(s):

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA II(B)(1), p. 12 - 13.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

500 DEFAULT JUDGMENTS**Rule LR49-SC03-501 Compliance with Service Requirements**

In determining whether the Court has personal jurisdiction over the Defendant, the failure to specifically describe the place of personal service or to provide any other information in the return of service as required by SCR 3(D) shall give rise to the rebuttable presumption that service of Notice of Claim was not perfected on Defendant.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 1(b), p. 27;

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT G, p. 15 - 16.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC10-502 Attorney's Fees

No judgment shall include attorney's fees unless such fees are authorized by law or by contract between the parties. The party seeking attorney's fees shall support its request with evidence which may include an affidavit setting forth the legal authority for the awarding of attorney's fees, the number of hours reasonably spent on the case and the hourly rate of those persons providing legal services.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC10-503 Assigned Debts

When default judgment is sought on an assigned debt, a copy of the assignment(s) on which the Plaintiff's right to enforce the contract or account is founded shall be attached to the Motion for Default Judgment unless previously provided to the Court or attached to the Notice of Claim.

Comment: This provision is similar to TR 9.2, which requires that certain written instruments, affidavits, and other documentation are attached to any pleading where the claim is based on such documents.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC10- 504 Recoverable Damages

A judgment may not exceed the relief specifically requested in the Notice of Claim, except that a Notice of Claim generally seeking unpaid rents for real estate shall be deemed to include a request for rents accruing after filing through the date of judgment. The Court may allow an amendment of the Notice of Claim and/or a continuance to file the same at any time before the damages hearing, if it finds that the Defendant(s) have or will receive reasonable notice of said amendment before the damages hearing.

Comment: The problem addressed in this rule is that of a Defendant not being made aware of the full extent of the landlord's alleged damages. A catch phrase of "all other available relief" or "compensation for any waste committed on the premises" is insufficient to alert an unrepresented Defendant in a small claims setting. On the other hand, if a tenant is advised in the Notice of Claim that the "landlord is seeking back rent for three months and all rent accruing from the date of filing to the date of judgment", simple multiplication will inform him of his liability.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT D (48), p. 12.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(h), p. 28.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-505 Dismissal of Plaintiff's Claim

Upon the failure of a Plaintiff to appear at the initial hearing or at a trial on the merits, the cause may be dismissed without prejudice, provided that the dismissal may be with prejudice if the same cause of action was previously dismissed for failure to prosecute or was voluntarily dismissed by the Plaintiff. Further, default judgment may be entered in favor of Defendant on any counterclaim.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

600 POST JUDGMENT PROCEEDINGS

Rule LR49-SC00-601 Court's Jurisdiction Pending Docketing in a New Court

Nothing in these rules shall be construed as divesting the Court of jurisdiction to hear matters arising between the date of filing of a Motion for Change of Venue or a Jury Demand or a Notice of Appeal and the date the case is docketed in the receiving Small Claims or Superior or Circuit Court.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-602 Proceedings Supplemental

- A. **General Procedure.** Proceedings supplemental to execution shall be governed by T.R. 69(E) and applicable statutes, and subject to the approval of the Court.

- B. **Thirty-Day Rule.** A Motion for Proceedings Supplemental shall not be set until thirty (30) calendar days after the date of judgment, except by order of the Court for good cause shown.
- C. **Hearings.** A Proceedings Supplemental shall be dismissed if the Court finds that the judgment creditor has had a reasonable opportunity to discover and execute on non-exempt assets or income. Once a Proceedings Supplemental is dismissed, subsequent Motions for Proceedings Supplemental shall only be granted upon a showing of a material change in the debtor's financial circumstances or that a sufficient period of time has lapsed to justify a subsequent proceeding.
- D. **Court Approval.** In determining whether to approve an agreed payment plan, the Court shall consider the same factors used in reviewing agreed judgments per LR49-SC11-404.

Comment: This provision is consistent with Branham v. Varble, which indicates that it is appropriate for Judges in small claims proceedings to advise pro se litigants of their exemption rights, at least as it pertains to the general wage and Social Security exemptions. (Branham v. Varble, 952 N.E. 2d 744, 748 (Ind. 2011)). It is also consistent with Carter v. Grace Whitney Properties, which indicates that after future proceedings supplemental “must be supported by a showing [by the creditor] that new facts justifying a new order or examination have come to its knowledge.” (Carter v. Grace Whitney Properties, 939 N.E.2d 630, 637 (Ind. App. 2010); see also, Button v. James, 909 N.E.2d 1007, 1009 (Ind. App. 2009); Kirk v. Monroe County Tire, 585 N.E.2d 1366, 1369 (Ind. Ct. App. 1992)).

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(35) – (36), p. 11; E(61), p. 14.
 REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(c), p. 27; 2(e), p. 28.
 REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA I (A), p. 6.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC11-603 Garnishment of Wages

The Court may set the amount of a wage garnishment at less than the maximum imposed by Ind. Code § 24-4.5-5-105, if it determines that Defendant will be deprived of income necessary for Defendant's support and/or the support of those legally dependent on the Defendant. The Defendant bears the burden of proving the above financial circumstances.

Comment: This provision is consistent with Small Claims Rule 11(C), which authorizes the court to specify the method of payment when ordering a judgment.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-604 Appeals

The provisions of LR49-TR79.1-228(C) of the Marion County Civil Rules shall govern all appeals from a Small Claims Court.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

700 MISCELLANEOUS

Rule LR49-SC00-701 Staff Identification

Court staff are to display identification by name and title at all times as prescribed by the Judge. When conducting Court business by phone, staff shall also identify themselves.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(31), p. 11.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 2(a), p. 27.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-702 Court Facilities

Court facilities shall be available on an equal basis to all persons having business with the Court, provided that the Court may reserve facilities for the purpose of conducting settlement conferences during Court sessions and for a reasonable period of time before and after each session. The Courtroom may be used for conferences, if other areas on the premises are unavailable or insufficient. If it is necessary to use the Courtroom, oral and/or written notice shall be given that the use of the Courtroom is not an endorsement or approval of the positions of any party and that the Court will independently review any agreement reached by the parties.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT C(30), p. 11.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-703 Wedding Fees

- A. Judges may charge a reasonable fee for weddings.
- B. When a wedding is performed on Court premises or during the regular hours of the Court, the fee shall be deposited in the Township General Fund.
- C. Judges shall keep a record of each wedding performed and shall report annually to the Township Advisory Board the number of weddings performed on Court premises or during the regular hours of the Court.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT F(64) – (65), p. 15.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 9, p. 30.

Comment:

Officiating at weddings is a minor activity in all of the Small Claims Courts, except in Center Township. Wedding fees have been a substantial source of personal income for Center Township judges since the inception of the Small Claims system more than forty (40) years ago. Moreover, Justices of the Peace performed weddings for a fee for many years before it was replaced by the current system.

Changing views on the propriety of public officials accepting fees as compensation and increases in the revenue derived from wedding fees require a reevaluation of this practice. For these reasons, the proposed Rule follows the Task Force recommendation and requires that wedding fees for weddings performed in the Court or on Court time be deposited in the Township General Fund.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-704 Law Practice of Judges

A Judge shall not practice law before another Small Claims Court Judge.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT F(68) – (70), p. 15.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 8, p. 30.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-705 Compliance with the Americans with Disabilities Act ("ADA")

The Court shall arrange for an evaluation of the compliance of Court facilities with the ADA. By April 1, 2013, each Court shall provide to the Township Advisory Board a copy of the evaluation and request the Board to correct violation(s).

Citation(s):

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA I(C), p. 6 - 7.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-706 Availability of Rules and other Legal Reference Material

- A. Sufficient copies of these Rules, the Indiana Small Claims Rules, the Small Claims Litigant's Manual and the brochure entitled Rights and Responsibilities shall be available at the Court. The above materials shall be in English and Spanish. The Court may supplement the above materials as it sees fit.
- B. The Circuit Court shall be responsible for making the above materials available to locations other than the Small Claims Court.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 3(d), p. 28.

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA I (D), p. 8 - 7.

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA III (A), p. 16.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.

Rule LR49-SC00-707 Availability of Interpreter Services

Upon a showing that a party has limited English proficiency to understand and/or effectively participate in the proceedings, the Court shall provide a certified interpreter at no cost to the party. The Court shall provide an American Sign Language interpreter at no cost to parties with hearing disabilities.

Citation(s):

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, FINDINGS OF FACT D (46) – (48), p. 12.

REPORT ON THE MARION COUNTY SMALL CLAIMS COURT, PART C COMPLEMENTARY REFORM 3(d), p. 28.

REPORT #1 ON LANDLORD-TENANT COURT PROCEEDINGS IN INDIANA I (D), p. 8 - 7.

Adopted Oct. 12, 2012, effective Jan. 1, 2013.